

RECEIPT #
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 SUMMONS ISSUED 11/5/04
 LOCAL RULE 4.1
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 BY DPTY. CLK. M
 DATE 11-5-04

UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS

FILED
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2011-5 P 3:05

U.S. DIST. CT. COURT
 DISTRICT OF MASS.

SARAH HORTON,

Plaintiff,

v.

Civil Action No.

TOWN SPORTS INTERNATIONAL, INC.,
 and TSI FENWAY, INC. d/b/a BOSTON
 SPORTS CLUBS,

Defendants.

04 12359 MEL

NOTICE OF, AND PETITION FOR, REMOVAL

MAGISTRATE JUDGE *Collings*

TO: The Honorable Justices of the
 United States District Court
 District of Massachusetts
 United States Courthouse
 1 Courthouse Way
 Boston, MA 02210

Pursuant to 28 U.S.C. §§ 1441 and 1446, Town Sports International, Inc. and TSI Fenway, Inc. d/b/a Boston Sports Clubs (collectively "TSI" or "Petitioners") hereby petition this Honorable Court for the removal of this action from the Suffolk County Superior Court of the Commonwealth of Massachusetts ("Suffolk Superior Court") to the United States District Court for the District of Massachusetts based on the following facts:

1. On or about October 7, 2004, Plaintiff Sarah Horton ("Horton") commenced a civil action in the Suffolk Superior Court entitled Sarah Horton v. Town Sports International, Inc. and TSI Fenway, Inc. d/b/a Boston Sports Clubs, Civil Action No. 004-4411, by filing a Complaint seeking substantial monetary damages from TSI.

2. On or about October 20, 2004, TSI's registered agent in Massachusetts for service of process, CT Corporation, received a copy of the Summons and Complaint in this matter which had previously been filed on October 7, 2004 in Suffolk Superior Court in Boston, Massachusetts.

3. The following documents represent all processes, pleadings, and orders TSI is aware of to date:

- (a) Summons to Defendants Town Sports International, Inc. and TSI Fenway, Inc.;
- (b) Civil Action Cover Sheet; and
- (c) Complaint.

Copies of the foregoing documents are attached hereto as Exhibit A.

4. This action is an action in which this Court has original diversity jurisdiction under the provisions of 28 U.S.C. § 1332, in that:

- (a) the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs; and
- (b) both Plaintiff, on the one hand, and Petitioners, on the other hand, are citizens of different states. Plaintiff is an individual residing in Boston, Massachusetts. Petitioners are corporations organized under the laws of Delaware with principal places of business in New York.

5. In particular, Horton, in the Civil Action Cover Sheet filed with her Complaint, alleges that her lost wages to date amount to \$85,000.00 and that her anticipated lost wages total \$110,000.00.

6. This Notice of Removal is filed within thirty (30) days of service of the Complaint.

7. A copy of this Notice of Removal addressed to the Suffolk Superior Court and a separate Notice of the filing of the same will be served today, by hand, on Horton's counsel, and will be filed today, pursuant to 28 U.S.C. § 1447(d), with the Suffolk Superior Court.

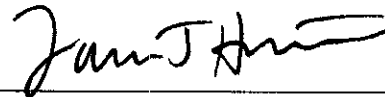
8. Pursuant to Local Rule 81.1(a), Petitioners will request from the clerk of the Suffolk Superior Court certified or attested copies of all records and proceedings in the state court, and certified or attested copies of all docket entries therein, including a copy of this Notice of Removal, and will file the same with this Court within thirty (30) days after the filing of this Notice of Removal.

WHEREFORE, Petitioners Town Sports International, Inc. and TSI Fenway, Inc. d/b/a Boston Sports Clubs hereby respectfully remove the above-captioned action pending in the Suffolk County Superior Court of Massachusetts to this Court.

Respectfully submitted,

TOWN SPORTS
INTERNATIONAL, INC. AND TSI
FENWAY, INC. D/B/A BOSTON
SPORTS CLUBS

By their attorneys,



Laurie J. Hurtt (BBO#634149)
Greenberg Traurig, LLP
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Tel: (617) 310-6000
Fax: (617) 310-6001

DATED: November 5, 2004

CERTIFICATE OF SERVICE

I, Laurie J. Hurtt, hereby certify that on the 5th day of November, 2004, I served by hand a copy of the above to the following counsel of record: Jonathan R. Black, Esq., 99 Derby Street, Suite 200, Hingham, MA 02043.

A handwritten signature in black ink, appearing to read "Laurie J. Hurtt", written over a horizontal line.

Laurie J. Hurtt